

## **Executive Committee Meeting Minutes – Monday, December 6, 2004**

Chairman Dwyer called the meeting to order at 8:32 a.m. and led the committee in the Pledge of Allegiance.

**Present:** Chairman James Dwyer, County Board Supervisors Patricia Haukohl, Walter Kolb, Richard Manke, William Mitchell, Duane Paulson. **Absent:** Duane Stamsta.

**Staff Present:** Chief of Staff Lee Esler, Legislative Policy Advisor Mark Mader, Legislative Policy Advisor Dave Krahn, Office Services Coordinator Windy Jicha.

**Other Staff Present:** Corporation Counsel Tom Farley, Director of Administration Norm Cummings, Collections & Business Services Manager Sean Sander, Information Systems Manager Mike Biagioli, Community Development Coordinator Glen Lewinski, Principal Internal Auditor Jackie Siewert, Senior Financial Analyst Clara Daniels.

### **Correspondence**

Chairman Dwyer reviewed and distributed the list of correspondence. He said Supervisors should request copies of the listed items from Jicha.

### **Discuss and Consider Ordinance 159-O-083: Authorize Member Services Agreement with the Wisconsin Local Government Telecommunications Coalition**

MOTION: Manke moved, Kolb second to approve Ordinance 159-O-083.

Biagioli said the coalition is a consortium of local governments including school districts, cities, towns, counties, etc. working together to get the best prices possible on telecommunications. Telecommunications companies offer different pricing for Centrex landlines. Through 1997 the state negotiated prices with a provider and the local governments were authorized to share the same price as the state. The contract changed in 1998 when it became the local governments' responsibility to negotiate the best rates with providers. The local governments weren't getting the same price as the state. This issue was recognized by telecommunications auditing firms. An auditing firm called Waukesha County saying they could guarantee we could get money back from SBC for overpayments. The firms said they would come in, find out how much we could get back and then Waukesha County could ask the telecommunications company for a refund. Waukesha County would then give 50% of this refund to the auditing firm. Waukesha County did not get involved in this. The state recommended avoiding this strategy because it wasn't as easy to get money back from the telecommunications providers as the auditing firms said it would be. In recognition of that fact, a few auditing firms thought there were solid cases and wanted to work with the local governments. Biagioli said they needed to build an organization to support this initiative. Cooperative government was seen as the best way to negotiate prices. The coalition was set up so everyone would work together. The objective is to avoid litigation at all costs but to be ready if it comes to that.

Biagioli said we have completed an application to join the Coalition. The next step is to sign the agreement. After we completed the application ten months ago, the Coalition did a partial audit on our bills and we thought the audit of billing errors proved it was worth our while to go forward. We are a large Centrex user. Biagioli said he is the acting president of the Coalition Board.

Sander said the Coalition says that we should get the state rate and we are entitled to get the excess charges back. We will have better phone rates if we purchase services as a group. Because this is in the DOA strategic plan, we were going to put out an RFP for this but we feel the group approach is better.

Biagioli said the law firm; Whyte Hirschboeck Dudek, S.C. will only get paid if we get money back. They will take up to 50% of what we get. The amount of money we get back is determined by a formula depending on the number of municipalities that join the coalition. Sander said he feels we would pay up to \$1K per year to be in the organization. The application fee was waived.

Paulson asked are there no costs to be a member? Biagioli said there are administrative costs of \$1K to \$2K. The amount will depend on the WTCO board. Negotiation fees are worked into the contract so the provider absorbs the cost. There are six cell-phone providers across the state and the group will also try to negotiate cell phone prices.

Sander said no payment has been made to Whyte Hirschboeck Dudek, S.C. yet. The legal and auditing costs are being accumulated. The only way the firms get paid is if money is recovered. The payments cannot exceed 50% of the total recovered from the providers.

Paulson said the recovery is far more than this seems to indicate. Biagioli said it is hard to estimate how much you are going to get back. Sander said we wouldn't go forward with this if we found out we'll only get a few thousand dollars. Biagioli said the recovery would be split amongst all the members based on a formula.

Haukohl said page four lists fees that have already been accumulated by the Coalition. Is this money already spent? Farley said yes, but by now the amount is probably more. This amount is from January 2004. Sander said expenses were incurred to do research. It is reasonable to pay expenses in order to get money back.

Biagioli said 24 entities have signed the application while 17 have signed the membership agreement and are full members.

Mitchell said his concern is in item seven on page six. Every group starts with a rosy picture. What is the exit strategy? What does this mean for out-of-pocket expenses and how much will it cost? It could be quite sizeable. He would question if all the expenses should be incurred by the Coalition. Sander said we can choose not to participate until a certain time. Once we are in, we are responsible for any past costs. If we choose to leave, we will be responsible for our share of these fees.

Farley said they would like to change this but the coalition was unwilling because they don't want us to take the information from the auditors, leave and recover the money on our own. If we were to pursue this on our own, the coalition could ask for legal fees and costs. If we don't pursue the claim, we won't be responsible for the costs. The organization will pursue the claim aggressively to resolve the issue without litigation. There will be a point when the organization has to decide they need to file a lawsuit and then Waukesha County will decide if we want to go forward.

Farley said there's a statute that requires negotiation of rates for local governments. At one point the state could negotiate the rates for themselves without local governments. Waukesha County has the best tariff deal with the providers of any county. The state is required to negotiate the rates for local governments and providers are responsible for providing the state rate. Our contract says our rates are as good as the state's rates. There are five different rates you can get and providers could argue we are getting one of those rates. It won't be worth the recovery if we do this on our own. We don't think our recovery will be as great as other counties. For the future, it sends the message that municipalities won't be messed with and we will have bargaining power. There are benefits worth pursuing with the Coalition. It's not a get rich quick scheme.

Mitchell asked if we decide not to go forward, can we still be in the coalition? Biagioli said yes. If you choose not to participate in litigation, you can still be in the Coalition. Corporation Counsel will decide whether or not we go forward so this won't come back to the board.

Kolb asked who approached us to join? Biagioli said Brookfield Mayor Speaker came to us. Kolb asked what groups started it? Biagioli said City of West Bend, Village of Menomonee Falls, City of Brookfield and Eau Claire School District were the original members. They talked to the past president of Ameritech and he felt it made sense to do this. Then they brought in Margaret Farrow of Whyte Hirschboeck Dudek, S.C. to investigate the state side.

Dwyer said normally in government, we have an idea and then do an RFP, not the reverse. Why did Whyte Hirschboeck Dudek, S.C. get involved?

Biagioli said Jefferson Davis is the past president of the Coalition. The Coalition sent him a letter thanking him for his participation. The Village of Menomonee Falls is still involved. Sander said they have concerns. Do we still think this is a good thing? Yes. Would we have done things differently if we were in it from the beginning? Yes.

Paulson asked if at the end of one year we terminate, are we responsible for a portion of what has been spent to date? Biagioli said we are responsible for the money spent to date if they go to litigation. If we opt out for litigation, we aren't responsible for that amount.

Paulson asked, who are we suing, SBC? Biagioli said yes. Paulson asked why were we negotiating contracts with SBC when we should be under the state's contract? Sander said SBC has a central office where they keep all the equipment. We don't have any equipment here. We are using SBC's infrastructure. They told us we can't get the same rates because the distance the calls need to go is based on how far the calls are made from the central SBC office. Whyte Hirschboeck Dudek feels we should have gotten the state rate. When we get to the point of negotiation, we can decide to back out if we choose. The hope is that we will reach a settlement and litigation won't be needed.

Paulson asked what's in writing? Farley said it says our rates are consistent with the state's rates. Sander said every municipality has a different rate so that's why the claims are all different. We were told it's based on some formula.

Paulson said if the law says the state will do this, is the state liable for the rates? Farley said we wouldn't sue the state. The state has the right to not follow the law if they choose. We wouldn't pursue this if we were on our own for the same concerns the committee has.

Kolb said there's a reason Whyte Hirschboeck Dudek wants to get in on this. They wouldn't litigate unless they felt they could get money. If we approve litigation and we lost, we will have to pay the bill. Sander said they are allowed to recover up to 50% of the claim. If we found out we were getting ten cents on the dollar, we wouldn't go forward. Kolb said he can't see the motivation on this and he has concerns with who is involved. What negatives are you not sharing with us? You are selling us on this so you're only giving the positives.

Dwyer asked how much money do you anticipate us getting back? Sander said they haven't audited all our bills but they believe it is in excess of \$100K. Dwyer said we are looking at a return of \$50K, which is a gamble of \$50K. If we lost, we would end up paying attorney fees greater than \$50K. They have one and one half years of charges incurred or \$150K incurred as of January 1, 2004. Sander said he thinks total expenses are around \$400K right now.

Farley said the law firm seems to think there could be return of a half million dollars. They are taking the full risk. They don't get paid if this is resolved before litigation. In a multi-million dollar recovery, they want to

get back more than what they put into this. They are charging by the hour and they will get paid. Farley said we are hearing a less than enthusiastic view from the presenters but it is worth pursuing to find out how much we are looking at.

Mitchell said he doesn't think they'll find the state a helpful partner. We are coming in after everything has been set up. We aren't following our own rules like looking at multiple law firms through an RFP. He has an issue with the fact that these selections were made without our input. The law firm may be a good one but he's concerned that we wouldn't have picked these people if we had been involved earlier.

Esler asked what is the effective date of the agreement? Biagioli said it is effective after the board approves it and it is signed. Esler said he assumes the date with the signatures, the agreement, articles of formation; governance plan, etc. are on file with the Department of Administration. Biagioli said we have a state ID for the organization and an account for management of fees. Esler said we yellow-copied the membership agreement to supervisors but not the other documentation. The ordinance says they are on file. Farley said he doesn't have the articles of governance but thinks the Department of Administration does.

Esler said the governance agreement requires the Coalition to employ legal counsel and a telecommunications consultant. Who is the telecommunications consultant? Biagioli said Dr. Ted Lasser is serving as the consultant. Esler asked how much has been incurred in fees so far? Biagioli said as of January 27, 2004, they had incurred fees totaling \$329K.

Esler asked when was the organization formed? Do you have a breakdown of expenses? Biagioli said he asked Sander to look into the expenses. Dr. Lasser formed the coalition. Esler said rolling fees up to the date of the agreement, one would think everyone would sign at once because the membership agreement states there are additional fees of \$130K. Has the amount of fees incurred increased since this date? Sander said yes. These are the same questions they've been asking. They want an itemization of all expenses incurred to date. The amount of Waukesha County's will be determined by formula. There's no mechanism to audit what SBC charges versus what you actually incur because we rent their equipment. Waukesha County lacks expertise to investigate tariffs and billing. If we did it on our own, we wouldn't have the benefit in numbers to negotiate charges. Is this approach the best of all worlds? No, but we weren't involved in writing the agreement. We don't have to join right now. We can go forward but we don't have much leverage.

Esler asked if their practice is to solicit government employees to promote these programs? Who is the vendor soliciting this? Why are you here and not representatives from the law firm? Sander said they presented it to us and we made the assessment. We aren't paying anyone anything and we aren't fronting any money.

Esler asked what is their track record to get claims recovered? Biagioli said no claims have been recovered yet. They are building size before they go after claims. We are the lynch pin that pushes them over the top. Sander said we are a large sized government and the one paying closest to the state rate. Sander said he has negotiated with SBC twice. We can help other governments while giving us leverage.

Paulson said what bothers him is that SBC is a tough negotiator. You are saying you were mistaken on our agreement with SBC and now you're going to hire lawyers to sue for a bad contract. Sander said SBC told us at the table that we couldn't get the same rate as the state. We relied on getting the same rate as the state.

Paulson said we should get the lowest price. Instead of trying to recover the \$50K, it might be better to just move forward and get better prices. Maybe it would be better to let the past charges go and move forward with the coalition on getting better prices.

Dwyer asked Biagioli, how much of your time is in this? Biagioli said it is better that a government employee be the standard bearer of the organization. They identified 82 municipalities that could be players in the coalition. They want to form regional groups. His responsibility would be at regional meetings one time per quarter and be available to pass information back and forth. He would also chair board and membership meetings. The time will vary. Interns will support the administrative part of the organization. He estimates putting in 25 hours per quarter. His time commitment will fluctuate on the negotiation side.

Mitchell said he does not support this because of the termination language in the contract. It doesn't feel right to him. If we get a better rate with the coalition, will we have to pay a portion to the coalition every month? Sander says he doesn't think we would have to pay that. Mitchell said we spend a lot of time in Waukesha County on Information Systems issues and he doesn't want to take Biagioli away from his job.

Esler said regarding intergovernmental agreements, there was a newspaper article on this stating that Brown County voted August 18 on this and would save several thousands of dollars by joining. Was Jeff Landin involved in this? Biagioli said yes. Esler said you are known by the company you keep.

Dwyer said he won't support this because he doesn't want Biagioli spending 20% of his time away from the county. Also, more and more questions come up as we review this. We won't fall behind by not joining now.

Motion defeated: 0-6.

#### **Status Update on Telecommunications Environment Upgrade Capital Project # IS-200207**

Biagioli said every other year we look at the best way to move forward in telecommunications for Waukesha County. We lease our lines from SBC and rely on them to accurately bill us. The industry is changing and we are moving away from landlines. Voice over IP is something we need to be ready to move to when the time comes. Voice over IP allows us to use our infrastructure and attach phone devices to PCs so we don't have to pay for landlines. We would manage the environment through a server. Voice over IP is not subject to the same tariff rates as landlines. To make this switch we would have to invest in new equipment.

Sander said in the past when we looked at this, it wasn't for us. The current method is the best price because the infrastructure is in place. The only Centrex provider in the past was SBC. Now there are additional providers who use SBC's equipment and charge less than SBC. A consultant is studying our options right now. The consultant is going to various departments to see what their needs are and then he will prepare a cost analysis to help us determine the best route.

Biagioli said we will need to replace our voice mail system soon. One advantage of this new technology is more robust voice mail options such as managing Voice mail through a PC.

Sander said we negotiate rates for local landlines, long distance and cell phones. The actual costs are charged back to the departments. Departments are also charged the monthly phone costs that include overhead and voice mail. There is a lot of accounting involved in this process.

Esler said \$137K is encumbered in this project already. What was it for? Sander said the amount was under our prior contract. We paid SBC upfront because we found we got the best price by paying upfront versus making monthly payments. Esler asked who's our consultant? Sander said his name is Tim Taff but can't remember the name of the company he works for. They are very knowledgeable of Centrex and other technologies.

Esler said one service the Coalition would have provided was negotiations with telecommunications companies. If we joined the Coalition, would we let them negotiate for us? Sander said the coalition wanted him to negotiate but he feels we would get a better rate in the coalition because more municipalities would be behind him.

**Discuss and Consider Ordinance 159-O-084: Modify the 2004 Budget for Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) Programs**

MOTION: Haukohl moved, Paulson second to approve Ordinance 159-O-084.

Lewinski said this ordinance authorizes the modification of the Community Development 2004 budget by appropriating up to \$538,714 of additional program income. We received more money than estimated because of the current low interest rates. Increasing budget expenditure authority will allow additional loans to be made by the end of the calendar year based on the approval of the CDBG and HOME Consortium boards. The department has indicated that it plans to request carry over of the unused expenditure balance for revolving loans to the 2005 budget.

Lewinski said he will provide the committee with loan statistics after the end of the year. They haven't had any defaults on loans due to the business methods used to determine loan amounts and the positive economic conditions in Waukesha County. The Office of Management and Budget is recommending a cut in this program budget of 50%.

Motion carried: 6-0.

**Discuss and Consider Ordinance 159-O-085: Approve the Acceptance of Additional Disaster Recovery Initiative Grant Funds**

MOTION: Haukohl moved, Manke second to approve Ordinance 159-O-085.

Lewinski said this ordinance authorizes the modification of the Community Development 2004 budget by appropriating up to \$60,000 of additional disaster recovery initiative grant funds related to the 1998 flooding. The State Department of Commerce has indicated that it has additional funds that will be forwarded to Waukesha County. This ordinance allows Community Development to accept the additional Disaster Recovery Funds that will be passed through to the Village of Butler and the Village of Elm Grove and on to the two low and moderate-income eligible projects in these communities. Lewinski received word from the state last week to confirm the actual amount is \$44,664.21.

MOTION: Paulson moved, Manke second, to change the appropriated amount listed in the ordinance from \$60,000 to \$44,665. Motion carried: 6-0.

On the original motion: motion carried: 6-0.

**Discuss and Consider Ordinance 159-O-093: Amend the Waukesha County Code to Include Provisions Pertaining to the Department Emergency Preparedness**

MOTION: Kolb moved, Mitchell second to approve Ordinance 159-O-093.

Esler said this ordinance amends the Waukesha County Code to include provisions pertaining to the Department of Emergency Preparedness. The ordinance repeals and recreates verbiage in sections 4-170 (c) 1 and 5-2 (1.) to include the Department of Emergency Preparedness and Director of emergency preparedness according to ordinances and resolutions previously approved by the County Board in 2004.

Motion carried: 6-0.

**Discuss and Consider the Following Appointments:**

**159-A-020: Appointment of Lawrence W. Weidmann to the Commission on Aging**

MOTION: Paulson moved, Haukohl second, to approve 159-A-020: Appointment of Lawrence W. Weidmann to the Commission on Aging. Motion carried: 6-0.

**159-A-021: Appointment of Lyman B. Humphrey to the Commission on Aging**

MOTION: Paulson moved, Haukohl second, to approve 159-A-021: Appointment of Lyman B. Humphrey to the Commission on Aging. Motion carried: 6-0.

**159-A-022: Appointment of Nancy M. Pagels to the Commission on Aging**

MOTION: Paulson moved, Haukohl second, to approve 159-A-022: Appointment of Nancy M. Pagels to the Commission on Aging. Motion carried: 6-0.

**159-A-023: Appointment of Miriam Behselich to the Commission on Aging**

MOTION: Paulson moved, Haukohl second, to approve 159-A-023: Appointment of Miriam Behselich to the Commission on Aging. Motion carried: 6-0.

**159-A-024: Appointment of Richard Tuma as the Director of Emergency Preparedness**

MOTION: Kolb moved, Manke second, to approve 159-A-024: Appointment of Richard Tuma as the Director of Emergency Preparedness. Motion carried: 6-0.

**Approve Minutes of November 15, 2004**

MOTION: Haukohl moved, Paulson second, to approve the minutes of November 15, 2004. Motion carried: 6-0.

**Wisconsin Counties Association Report of December 10, 2004**

Dwyer will report on this meeting after the WCA meeting on December 10, 2004.

**WCA- Woods Counties Research Project**

Dwyer distributed handouts from the research project presentation. The presentation outlined the public view of government and government services. Seventy percent of people interviewed thought property taxes were too high and that there should be some type of tax freeze. The same group said they thought we have a responsibility to provide services to the people in Wisconsin, like the high quality of life in Wisconsin and don't want anything to change. The presentation went in-depth into the survey results. The basic conclusion is there's a lack of understanding of what unit of government is responsible for what things. Dwyer said some ideas for referendum questions were: do you feel that your county portion of your property tax bill should be spent on state mandated HHS services and do you feel that your county portion of your property tax bill should be spent on the state court system?

Dwyer said the governor is finishing a tax incidence study outlining where taxes are collected and what programs and services they fund. We are in favor of lowering property taxes but how do we do that? People have a different perception of what a taxpayers' bill of rights will do for them. There are no easy answers to these questions. We need to learn ways to run government for less.

**Discuss and Consider Ordinance 159-O-093: Amend the Waukesha County Code to Include Provisions Pertaining to the Department Emergency Preparedness**

MOTION: Paulson moved, Kolb second, to amend Ordinance 159-O-093 by adding the words “Enrolled” and “Proposed” in the body of the ordinance as follows (the additions are underlined):

“Whereas Enrolled Resolution 159-R-007 creating the Department of Emergency Preparedness was approved by the County Board on August 10, 2004 and signed by the County Executive, and

Whereas Enrolled Ordinance 159-O-059 creating the position of Director of Emergency Preparedness was approved by the County Board on October 26, 2004 and signed by the County Executive, and

Whereas Proposed Ordinance 159-O-068 adopting the 2005 budget was approved by the County Board on November 9, 2004 and funds the position of Director of Emergency Preparedness effective July 1, 2005.”

Motion carried: 6-0.

**Committee Reports by Committee Chairs for the Following Meetings:**

November 16, 2004 – Land Use, Parks and Environment- Kolb said the committee adopted the Waukesha County Zoning Code and Shoreland Floodland Protection ordinances as well as an ordinance adopting nonmetallic mining reclamation section. The committee considered proposed resolutions and bylaws for the Wisconsin Land and Water Conservation Association.

November 16, 2004 – Personnel – Paulson said the committee reviewed the third quarter status report on Worker’s Compensation Claims and went into closed session to discuss collective bargaining issues.

November 17, 2004 – Finance – Haukohl said the committee reviewed the third quarter status reports on claims, general funds and proprietary funds. They considered two ordinances one to amend the 2004 Sheriff’s Department budget – expenditure of seized funds and one to set bond levels for county officers. They also reviewed a contract procurement process for office supplies.

December 2, 2004 – Public Works – Manke said the committee approved an ordinance for parking regulations on C.T.H. “K.” They considered bids for the UW-Waukesha cooling tower replacement and the replacement of the Human Services Center air handling units and roof. The committee heard a status update on the Justice Center Capital Project.

December 3, 2004 – Judiciary and Law Enforcement – Mitchell reported that the committee heard an overview of Mediation Center of Waukesha County with an emphasis on the Juvenile Center. They also approved two ordinances, one to approve an intergovernmental agreement for Waukesha County Communications Center employees with City of Brookfield and the other to extend the time period for retention payments to telecommunicators transitioning to county employment.

December 2, 2004 – Health and Human Services – Esler said the committee heard updates and reports on Mental Health Center staffing, status on pertussis and influenza, third quarter budget status for the Public Health Division, and Resource Center Discussions and Decisions. They also approved two ordinances to appropriate funds to the HHS budget and the Public Health Division. The committee discussed Waukesha County’s participation in the National Children’s Study and an Aging and Disability Resource Center. They also reviewed software used in Senior Services.

**Motion to Adjourn**

MOTION: Manke moved, Paulson second, to adjourn the meeting at 12:16 p.m. Motion carried: 6-0.

Respectfully submitted,

Executive Committee  
December 6, 2004  
**Walter Kolb**  
Secretary